High Court to Hear Case for Taps on Domestic Radicals

The Supreme Court agreed to hear the Justice Department's argument for wiretapping of domestic radicals without court approval, but four justices indicated skepticism about the government's case.

As expected, the high court set for review this fall an April 8 decision by the Sixth U.S. Circuit Court of Appeals that there is no exception in "domestic subversion" cases from the need for wiretapping warrants.

Meanwhile, in another case, Justices Potter Stewart, William O. Douglas, William J. Brennan Jr. and Thurgood Marshall warned against abandoning the safeguards of judicial warrants even "in times of unrest" because of "fear of internal subversion."

Right to Privacy

Writing in a New Hampshire case involving the Fourth Amendment right to privacy, Stewart noted that the court has recognized few exceptions to the requirement that police and federal agents obtain prior approval from a neutral judge before conducting a search. In recent years, the court has included electronic eavesdropping in the category of searches.

"The burden is on those seeking the exemption to show the need for it," Stewart wrote. "In times of unrest, whether caused by crime or racial conflict or fear of internal subversion, this basic law and the values that it represents may appear unrealistic or 'extravagant' to some. But the values were those of the authors of our fundamental constitutional concepts."

Nothing that the British and revolutionary Americans had won privacy rights "in times not altogether unlike our own," Stewart and his three colleagues said the Constitution protected "a right of personal security against arbitrary intrusions by official power." He concluded:

"If times have changed, reducing every man's scope to do as he pleases in an urban and industrial world, the changes have made the values served by the Fourth Amendment more, not less, important."

Mitchell's Contention

Attorney General John N. Mitchell contends that tapping and bugging domestic subversives is a "reasonable," and therefore a constitutional, kind of search because the suspects are as dangerous as foreign spies.

The Sixth Circuit case, on of several in the lower courts, involved the pending trial of Lawrence (Pun) Plamondon, minister of defense of the White Panther Party, on charges of conspiring to blow up the Central Intelligence Agency's offices as Ann Arbor, Mich., where the party is based.

Lower courts ruled that admitted eavesdropping on the accused without court permission was unconstitutional and that the government must turn over wiretap logs to the defense for a search for any connection between illegally obtained evidence and other evidence in the government's possession. The government has consistently resisted such orders to turn over its records.

The court, announcing it hopes to recess for the summer after a final session next Monday, took these other actions:

Elections

The court upheld without dissent Georgia's laws requiring independent candidates to obtain petition signatures from 5 per cent of the electorate to get a place on the ballot. The court stressed the absence of other obstacles to new political entities. In a Mississippi case the court refused to compel the dividing of Hinds County, which includes the capital of Jackson, into districts as sought by black voters.

Obscenity

The court refused to hear the case of convicted publisher Ralph Ginzburg, who contended that his three-year prison term offered a chance to develop rules for appellate review — and reduction — of sentences. The court also agreed to consider the power of customs officials to seize obscene films from a person importing them for his personal use.

Perjury

The court refused without comment to review the conviction and 30-month prison sentence of Martin Sweig, former administrative assistant to retired House Speaker John W. McCormack (D-Mass.), for lying to a federal grand jury.